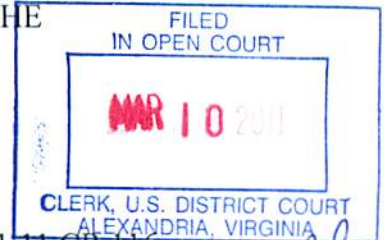


IN THE UNITED STATE DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA	)	CRIMINAL NO. 1:11 CR 116
	)	
v.	)	Count 1: Corrupt Endeavor to
	)	Impede the I.R.S.
	)	(26 U.S.C. § 7212(a))
THOMAS J. ERNST	)	
	)	Counts 2 – 4: Tax Evasion
Defendant.	)	(26 U.S.C. § 7201)
	)	
	)	Counts 5 – 6: Failure to File
	)	(26 U.S.C. § 7203)
	)	
	)	<b>Under Seal Pursuant to Fed. R.</b>
	)	<b>Crim. P. 6(e)(4)</b>

**INDICTMENT**

MARCH 2011 TERM – AT ALEXANDRIA, VIRGINIA

THE GRAND JURY CHARGES THAT:

At all times material to this Indictment:

**I. Introductory Allegations**

1. Defendant THOMAS J. ERNST (“ERNST”) was a resident of McLean, Virginia and Arlington, Virginia, in the Eastern District of Virginia;
2. On or about April 18, 1997, ERNST incorporated Medicare Plus, Inc. (“Medicare”) in the state of Ohio and ceased operations in or about 2006;
3. ERNST served as the President and Chief Executive Officer (“C.E.O.”), oversaw all financial and executive decisions, and the day-to-day operations. He maintained signature authority on Medicare’s bank accounts;

4. Medisure was a health insurance benefits administration company with its principal place of business in Alexandria, Virginia. From in or about 2000 through in or about 2006, Medisure operated as a third-party administrator of the Postmasters' Benefits Plan ("PBP"), the health benefits carrier for the National League of Postmasters ("NLP");

5. On or about September 7, 2000, Medisure and NLP entered into a 10 year guaranty agreement under which Medisure would manage PBP's operations. NLP paid Medisure \$166,000 each month plus a \$33,000 administrative fee for services provided to NLP;

6. ERNST did not file U.S. Individual Income Tax Returns, Forms 1040, with the Internal Revenue Service ("I.R.S.") for the tax years 2001, 2002, 2003, 2004, 2005 and 2006, despite the fact that he was required to do so by law;

7. Medisure did not file any corporate income tax returns, Forms 1120, with the I.R.S. or pay any corporate income taxes for any year;

8. Medisure did not withhold, account for, or pay over taxes from its employees' checks or file any Forms 941 with the I.R.S. Medisure did not issue Forms 1099 or W-2.

#### Statutory Allegations

##### COUNT 1 (Obstruction)

Paragraphs 1 through 8 above are incorporated into Count 1 as if fully set forth therein.

9. Beginning in or about 2001, the precise date being unknown to the grand jury, and continuing thereafter up to and including at least April 16, 2007, in the Eastern District of Virginia and elsewhere, the defendant THOMAS J. ERNST did corruptly

endeavor to obstruct and impede the due administration of the internal revenue laws by committing acts and causing omissions, including but not limited to the following:

a. Causing Medicare to make payments from Medicare's corporate bank account, including but not limited to:

i. Between on or about May 21, 2001 and on or about February 18, 2006, approximately \$229,000 in rental payments for a summer house in New Jersey;

ii. Between on or about June 7, 2001 and on or about May 24, 2006, payment of approximately \$688,550 to his wife;

iii. Between on or about June 11, 2001 and on or about January 9, 2006, approximately \$141,282 in mortgage payments for a home in Fort Wayne, Indiana;

iv. Between on or about June 20, 2001 and on or about January 9, 2006, approximately \$628,000 to his sister-in-law, D.V.;

v. Between on or about July 15, 2001 and on or about August 6, 2006, payment of approximately \$141,511 to his son, B.E.;

vi. Between on or about July 19, 2001 and on or about December 25, 2005, payment of approximately \$306,648 to his son, J.E.;

vii. Between on or about October 6, 2001 and on or about February 10, 2005, approximately \$188,524.50 toward his son's college tuition at Georgetown University;

viii. Between on or about March 4, 2002 and on or about February 1, 2006, payment of approximately \$141,608 to himself;



ix. On or about March 11, 2002 approximately \$21,125 in rental payments for Apartment #429 at The Belvedere in Arlington, Virginia;

x. Between on or about March 19, 2002 and on or about November 8, 2005, approximately \$19,330 in payments for his sister M.E.'s assisted living facilities in Northern Virginia;

xi. Between on or about June 4, 2002 and on or about August 26, 2006, approximately \$168,700 in rental payments for Apartment #1714 at The Belvedere in Arlington, Virginia;

xii. Between on or about June 30, 2003 and on or about December 27, 2004, approximately \$50,716 in rental payments for Apartment #1712 at The Belvedere in Arlington, Virginia;

xiii. Between on or about July 22, 2003 and February 2, 2005, approximately \$190,580 in payments for the purchase of a condominium at the Jefferson House Assisted Living facility in Northern Virginia, for his sister M.E.;

xiv. Between on or about September 14, 2003 and on or about July 10, 2006, approximately \$213,959 in mortgage payments and condominium fees for a condominium in Spring Lake, New Jersey;

xv. Between on or about October 1, 2004 and on or about December 10, 2005, approximately \$34,500 in rental payments for his son, B.E.'s apartment at The Belvedere in Arlington, Virginia;

xvi. On or about October 5, 2004 and on or about March 2, 2005, approximately \$45,419 for the purchase of a piano;

xvii. Between on or about October 25, 2004 and on or about June 15, 2006, approximately \$209,775 in lease payments for his residence in McLean, Virginia;

b. On or about May 17, 2004, creating or causing to be created a nominee entity called Trisum;

c. On or about September 10, 2004, creating or causing to be created a nominee entity called Golani;

d. From in or about June 2005 until on or about January 20, 2006, opening or causing to be opened and using or causing to be used bank accounts in the names of Trisum and Golani into which ERNST made or caused Medicare to make significant deposits and from which ERNST paid or caused to be paid personal expenses;

e. Purchasing or leasing assets, including but not limited to a condominium in Spring Lake, New Jersey, houses and a vehicle, in the names of his children B.E. and J.E. and his sister-in-law D.V.;

f. Creating fictitious documents, including powers of attorney, financial statements, Forms W-2s and individual and corporate income tax returns, used to purchase assets and refinance a mortgage in the names of his children B.E. and J.E. and his sister-in-law D.V.;

g. Failing to file U.S. Individual Income Tax Returns, Forms 1040, with the I.R.S. for tax years 2001, 2002, 2003, 2004, 2005 and 2006 despite the fact that he was required to do so by law;

h. Causing Medicare to fail to file corporate income tax returns, Forms 1120, with the I.R.S. for any year despite the fact that it was required to do so by law;

i. Causing Medicare to fail to withhold, account for, or pay over taxes to the I.R.S. from its employees' checks despite the fact that it was required to do so by law;

j. Causing Medicare to fail to file any Forms 941 with the I.R.S. despite the fact that it was required to do so by law;

k. Causing Medicare to fail to issue Forms 1099 or W-2 to its employees despite the fact that it was required to do so by law.

(All in violation of Title 26, United States Code, Section 7212(a).)

COUNT 2  
(Tax Evasion)

Paragraphs 1 through 8 above are incorporated into Count 2 as if fully set forth therein.

10. During the calendar year 2004, defendant THOMAS J. ERNST, resident of the Eastern District of Virginia, had and received taxable income of at least \$704,583. Upon said taxable income there was a substantial amount of income taxes due and owing to the United States. Well-knowing and believing the forgoing facts, defendant THOMAS J. ERNST, in the Eastern District of Virginia and elsewhere, did willfully attempt to evade and defeat the assessment and payment of said income tax due by him to the United States of America for the year 2004 by failing to make an income tax return on or about August 15, 2005, as required by law, to any proper officer of the I.R.S.; by failing to pay the I.R.S. said income taxes; and by committing the following affirmative acts of evasion, including but not limited to:

a. Concealing his income and assets by causing Medicare to make payments for ERNST's personal benefit, including but not limited to:

i. Between in or about January 2004 and on or about February 18, 2006, approximately \$147,600 in rental payments for a summer home in New Jersey;

ii. Between in or about January 2004 and on or about May 24, 2006, payment of approximately \$326,000 to his wife;

iii. Between in or about January 2004 and on or about January 9, 2006, approximately \$22,620 in mortgage payments for a home in Fort Wayne, Indiana;



iv. Between in or about January 2004 and on or about May 30, 2006, payment of approximately \$46,000 to his sister-in-law D.V.;

v. Between in or about January 2004 and on or about August 6, 2006, payment of approximately \$101,411 to his son B.E.;

vi. Between in or about January 2004 and on or about December 25, 2005, payment of approximately \$180,748 to his son J.E.;

vii. Between in or about January 2004 and on or about February 10, 2005, approximately \$47,300 toward his son's college tuition at Georgetown University;

viii. Between in or about January 2004 and on or about February 1, 2006, payment of approximately \$74,400 to himself;

ix. Between in or about January 2004 and on or about February 1, 2006, approximately \$104,000 in rental payments for Apartment #1714 at The Belvedere in Arlington, Virginia;

x. Between in or about January 2004 and on or about November 30, 2004, approximately \$22,716 in rental payments for Apartment #1712 at The Belvedere in Arlington, Virginia;

xi. Between in or about January 2004 and February 2, 2005, approximately \$122,680, in payments for the purchase of a condominium at the Jefferson Assisted Living facility in Northern Virginia, for his sister M.E.;

xii. Between in or about January 2004 and on or about July 10, 2006, approximately \$153,084 in mortgage payments and condominium fees for a condominium in Spring Lake, New Jersey;



xiii. Between on or about October 1, 2004 and on or about December 10, 2005, approximately \$34,500 in rental payments for his son B.E.'s apartment at The Belvedere in Arlington, Virginia;

xiv. On or about October 5, 2004 and on or about March 2, 2005, approximately \$45,419 for the purchase of a piano;

xv. Between on or about October 25, 2004 and on or about June 15, 2006, approximately \$209,775 in lease payments for his residence in McLean, Virginia;

b. On or about May 17, 2004, concealing his income and assets by creating or causing to be created a nominee entity called Trisum;

c. On or about September 10, 2004, concealing his income and assets by creating or causing to be created a nominee entity called Golani;

d. From in or about June 2005 until on or about January 20, 2006, concealing his income and assets by opening or causing to be opened and using or causing to be used bank accounts in the names of Trisum and Golani into which ERNST made or caused Medicare to make \$350,800 in deposits and from which ERNST paid or caused to be paid personal expenses;

e. Concealing his income and ownership of assets by purchasing or leasing assets, including but not limited to a condominium in Spring Lake, New Jersey, houses and a vehicle in the name of his children B.E. and J.E. and his sister-in-law D.V.;

f. Concealing his income and assets by creating fictitious documents, including powers of attorney, financial statements, Forms W-2s and individual and

corporate income tax returns, used to purchase assets and refinance a mortgage in the names of his children B.E. and J.E. and his sister-in-law D.V.

(All in violation of Title 26, United States Code, Section 7201.)

COUNT 3  
(Tax Evasion)

Paragraphs 1 through 8 above are incorporated into Count 3 as if fully set forth therein.

11. During the calendar year 2005, defendant THOMAS J. ERNST, resident of the Eastern District of Virginia, had and received taxable income of at least \$915,678. Upon said taxable income there was a substantial amount of income tax due and owing to the United States. Well-knowing and believing the forgoing facts, defendant THOMAS J. ERNST, in the Eastern District of Virginia and elsewhere, did willfully attempt to evade and defeat the assessment and payment of said income tax due by him to the United States of America for the year 2005 by failing to make an income tax return on or before April 17, 2006, as required by law, to any proper officer of the I.R.S.; by failing to pay the I.R.S. said income taxes; and by committing the following affirmative acts of evasion, including but not limited to:

a. Concealing his income and assets by causing Medicare to make payments for ERNST's personal benefit, including but not limited to:

i. Between in or about January 2005 and on or about February 18, 2006, approximately \$86,600 in rental payments for a summer home in New Jersey;

ii. Between in or about January 2005 and one or about May 24, 2006, payment of approximately \$175,000 to his wife;

iii. Between in or about January 2005 and one or about January 9, 2006, approximately \$14,120 in mortgage payments for a home in Fort Wayne, Indiana;



iv. Between in or about January 2005 and on or about May 30, 2006, payment of approximately \$4,000 to his sister-in-law D.V.;

v. Between in or about January 2005 and on or about August 6, 2006, payment of approximately \$57,030 to his son, B.E.;

vi. Between in or about January 2005 and on or about December 25, 2005, payment of approximately \$102,300 to his son J.E.;

vii. Between in or about January 2005 and on or about February 10, 2005, approximately \$17,000 toward his son's college tuition at Georgetown University;

viii. Between in or about January 2005 and on or about February 1, 2006, payment of approximately \$62,400 to himself;

ix. Between in or about January 2005 and on or about November 8, 2005, approximately \$7,250 in payments for his sister M.E.'s assisted living facilities in Northern Virginia;

x. Between in or about January 2005 and on or about August 6, 2006, approximately \$80,000 in rental payments for Apartment #1714 at The Belvedere in Arlington, Virginia;

xi. Between in or about January 2005 and February 2, 2005, approximately \$10,000 in payments for the purchase of a condominium at the Jefferson House Assisted Living facility in Northern Virginia, for his sister M.E.;

xii. Between in or about January 2005 and on or about July 10, 2006, approximately \$89,379 in mortgage payments and condominium fees for a condominium in Spring Lake, New Jersey;

xiii. Between in or about January 2005 and on or about December 10, 2005, approximately \$25,300 in rental payments for his son B.E.'s apartment at The Belvedere in Arlington, Virginia;

xiv. On or about March 2, 2005, approximately \$25,419 for the purchase of a piano;

xv. Between in or about January 2005 and on or about June 15, 2006, approximately \$179,775 in lease payments for his residence in McLean, Virginia;

b. From in or about June 2005, until on or about January 20, 2006, concealing his income and assets by opening or causing to be opened and using or causing to be used bank accounts in the names of Trisum and Golani into which ERNST made or caused Medicare to make \$350,800 in deposits and from which ERNST paid or caused to be paid personal expenses;

c. Concealing his income and assets by purchasing or leasing assets, including but not limited to a condominium in Spring Lake, New Jersey, house and a vehicle in the name of his children, B.E. and J.E. and his sister-in-law, D.V.;

d. Concealing his income and assets by creating fictitious documents, including powers of attorney, financial statements, Forms W-2 and individual and corporate income tax returns, used to purchase assets and refinance a mortgage in the names of his children, B.E. and J.E. and his sister-in-law D.V.

(All in violation of Title 26, United States Code, Section 7201.)

COUNT 4  
(Tax Evasion)

Paragraphs 1 through 8 above are incorporated into Count 4 as if fully set forth therein.

12. During the calendar year 2006, defendant THOMAS J. ERNST, resident of the Eastern District of Virginia, had and received taxable income of at least \$359,946. Upon said taxable income there was a substantial amount of income taxes due and owing to the United States. Well-knowing and believing the forgoing facts, defendant, THOMAS J. ERNST, in the Eastern District of Virginia and elsewhere, did willfully attempt to evade and defeat the assessment and payment of said income tax due by him to the United States of America for the year 2006 by failing to make an income tax return on or before April 16, 2007, as required by law, to any proper officer of the I.R.S.; by failing to pay the I.R.S. said income taxes; and by committing the following affirmative acts of evasion, including but not limited to:

a. Concealing his income and assets by causing Medicare to make payments for ERNST's personal benefit, including but not limited to:

i. Between in or about January 2006 and on or about February 18, 2006, approximately \$26,000 in rental payments for a summer home in New Jersey;

ii. Between in or about January 2006 and on or about May 24, 2006, payment of approximately \$20,000 to his wife;

iii. Between in or about January 2006 and on or about January 9, 2006, approximately \$5,060 in mortgage payments for a home in Fort Wayne, Indiana;



iv. Between in or about January 2006 and on or about May 30, 2006, payment of approximately \$1,000 to his sister-in-law D.V.;

v. Between in or about January 2006 and on or about August 6, 2006, payment of approximately \$2,000 to his son B.E.;

vi. Between in or about January 2006 and on or about February 1, 2006, payment of approximately \$1,000 to himself;

vii. Between in or about January 2006 and on or about August 6, 2006, approximately \$12,000 in rental payments for Apartment #1714 at The Belvedere in Arlington, Virginia;

viii. Between in or about January 2006 and on or about July 2006, approximately \$67,576 in mortgage payments and condominium fees for a condominium in Spring Lake, New Jersey;

ix. Between in or about January 2006 and on or about June 15, 2006, approximately \$58,675 in lease payments for his residence in McLean, Virginia;

b. From in or about January 2006, until on or about January 20, 2006 concealing his income and assets by using or causing to be used bank accounts in the names of Trisum and Golani into which ERNST made or caused Medicare to make \$203,800 in deposits and from which ERNST paid or caused to be paid personal expenses;

c. Concealing his income and ownership of assets by purchasing or leasing assets, including but not limited to a condominium in Spring Lake, New Jersey, houses and a vehicle, in the name of his children B.E. and J.E. and his sister-in-law D.V.;

d. Concealing his income and assets by creating fictitious documents, including powers of attorney, financial statements, Forms W-2s and individual and corporate income tax returns, used to purchase assets and refinance a mortgage in the names of his children B.E. and J.E. and his sister-in-law D.V.

(All in violation of Title 26, United States Code, Section 7201.)

COUNT 5  
(Failure to File)

Paragraphs 1 through 8 above are incorporated into Count 5 as if fully set forth therein.

13. During the calendar year 2004, the defendant THOMAS J. ERNST, was the President and C.E.O. of Medicure, a corporation not expressly exempt from tax, with its principal place of business at Alexandria, Virginia, in the Eastern District of Virginia. He therefore was required by law, after the close of the calendar year 2004 and on or before March 15, 2005, to make an income tax return, for and on behalf of the corporation, to the Internal Revenue Service Center, at Cincinnati, Ohio, or to the person assigned to receive returns at the local office of the I.R.S. at Bailey's Crossroads, Virginia, stating specifically the items of the corporation's gross income and the deductions and credits allowed by law. Well knowing and believing all of the forgoing, he did willfully fail, on or about March 15, 2005, in the Eastern District of Virginia and elsewhere, to make said income tax return at the time required by law.

(All in violation of Title 26, United States Code, Section 7203.)



COUNT 6  
(Failure to File)

Paragraphs 1 through 8 above are incorporated into Count 6 as if fully set forth therein.

14. During the calendar year 2005, the defendant THOMAS J. ERNST, was the President and C.E.O. of Medicure, a corporation not expressly exempt from tax, with its principal place of business at Alexandria, Virginia, in the Eastern District of Virginia. He therefore was required by law, after the close of the calendar year 2005 and on or before March 15, 2006, to make an income tax return, for and on behalf of the corporation, to the I.R.S. Service Center, at Cincinnati, Ohio, or to the person assigned to receive returns at the local office of the I.R.S. at Bailey's Crossroads, Virginia, stating specifically the items of the corporation's gross income and the deductions and credits allowed by law. Well knowing and believing all of the forgoing, he did willfully fail, on or about March 15, 2006, in the Eastern District of Virginia and elsewhere, to make said income tax return at the time required by law.

(All in violation Title 26, United States Code, Section 7203.)

A TRUE BILL:

~~Pursuant to the E-Government Act,  
the original of this page has been filed  
under seal in the Clerk's Office.~~  
FOREPERSON

Neil H. MacBride  
United States Attorney

By: Charles F. Connolly  
Charles F. Connolly  
Assistant United States Attorney

Caryn Finley  
Special Assistant United States Attorney